

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

EDWARD R. JONES,

Plaintiff,

v. // Civil Action No. 1:07CV57
(Judge Keeley)

JOHN L. BOARD, Taylor County
Prosecuting Attorney, MICHAEL D.
KOCHKA, Police Officer, Grafton
City Police, EDWIN DELGADO,
Taylor County Sheriffs Dept.,
ROBERT BELTNER, Police Chief,
Grafton City Police Dept.,
DARLE SETTLER, Jr., self-employed
business owner, ROBERT HILL,
C.A. PRICE, Correction Officer, TVRJ,

Defendants.

ORDER ADOPTING REPORT AND RECOMMENDATION

On April 26, 2007, the pro se plaintiff, Edward R. Jones ("Jones"), filed a complaint pursuant to 42 U.S.C. § 1983. The case was referred to United States Magistrate Judge James E. Seibert for review.

On July 22, 2008, Magistrate Judge Seibert issued a Report and Recommendation ("R&R") that recommended that this Court dismiss all claims against John L. Board ("Board"), Michael D. Kochka ("Kochka"), Edwin Delgado ("Delgado"), Robert Beltner ("Beltner"),

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Darle Settler, Jr. ("Settler"), and Robert Hill ("Hill") with prejudice and allow Jones's claims against C.A. Price ("Price") to proceed. On July 29, 2008, Jones filed objections to the R&R.

This Court reviews objections de novo but may adopt any part of the R&R to which Jones does not object without substantive review. Wells v. Shriners Hosp., 109 F.3d 198, 199-200 (4th Cir. 1997).

Upon de novo review, the Court finds that Magistrate Judge Seibert correctly applied the applicable legal standard of Heck v. Humphrey, 512 U.S. 477 (1994), when he determined that Jones's claims against Board, Kochka, Delgado, Beltner, Settler, and Hill were frivolous. Magistrate Judge Seibert also properly applied the applicable legal standard of Bell v. Wolfish, 441 U.S. 520 (1979), when he determined that Jones's claims against Price should proceed.

Consequently, this Court **ADOPTS** the R&R (dkt no. 13) and **DISMISSES** all claims against Board, Kochka, Delgado, Beltner, Settler, and Hill **WITH PREJUDICE**. The Court **ORDERS** that Price be **SERVED** with a copy of the summons and complaint through the United States Marshall Service and **REFERS** this case back to Magistrate Judge Seibert for an R&R on the merits.

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The Clerk is directed to mail a copy of this Order to the pro
se plaintiff, the defendant and all appropriate agencies.

Dated: August 1, 2008.

/s/ Irene M. Keeley

IRENE M. KEELEY

UNITED STATES DISTRICT JUDGE